IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

INTERSTATE PACKAGING)
COMPANY,)
Plaintiff,)))
vs.) CASE NO. 3:11-0589) JUDGE NIXON/KNOWLES
CENTURY INDEMNITY COMPANY, et al.,)))
Defendants.))

ORDER

This matter is before the Court upon Plaintiff's "Motion to Compel." Docket No. 134.

Plaintiff has filed a supporting Memorandum (Docket No. 135) and a "Joint Written Statement Regarding Disputed Discovery Issues" (Docket No. 136). The Motion is directed to three of the Defendants in this action, Century Indemnity Company, Ace Property & Casualty Insurance Company, and Ace Fire Underwriters Insurance Company (hereinafter the "ACE Defendants").

The ACE Defendants have filed a Response in opposition to the Motion. Docket No. 137.

Plaintiff has filed a Reply to Defendants' Response. Docket No. 143.

For the following reasons, the Court will not address the merits of the Motion at the present time.

Judge Nixon has previously entered an Order granting a Motion for Summary Judgment filed by Defendants Great American Insurance Company and Great American Insurance Company of New York. Docket No. 88. Plaintiff filed a Motion to Reconsider Judge Nixon's

Order, but that Motion was subsequently denied. Docket No. 180. As the undersigned has previously observed, it "appears that Judge Nixon's reasoning in his summary judgment Order is a basis for all remaining Defendants to be dismissed from this action." Docket No. 159, p. 6.

The ACE Defendants thereafter filed a Motion for Summary Judgment with supporting materials, which sought a ruling consistent with Judge Nixon's prior Order granting summary judgment in favor of Great American. Docket Nos. 126, 127, 128. A short time later, Plaintiff filed the instant Motion to Compel. Obviously, if Judge Nixon grants the ACE Defendants' Motion for Summary Judgment, the instant Motion to Compel will be rendered moot.

For the foregoing reasons, the instant Motion to Compel (Docket No. 134) is DENIED without prejudice to being refiled if and as may be appropriate.

IT IS SO ORDERED.

E. Clifton Knøwles

United States Magistrate Judge

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